

REMARKS

Claims 1-23 are pending in the present application, with claims 1, 12 and 21 being the independent claims.

In the Official Action, dated October 25, 2005, the rejections from the May 5, 2005 Official Action were maintained. Namely, claims 1-9 and 21 were rejected under 35 U.S.C § 101. Claims 1-4, 7, 10-12, 15-20 were also rejected under 35 U.S.C § 103(a) as allegedly unpatentable over US Publication No. 2002/0069223 A1 (Goodisman) in view of U.S. Publication No. 2002/0123912 A1 (Subramanian). Claims 21-23 were rejected under 35 U.S.C § 103(a) as allegedly obvious over Goodisman in view of Subramanian and further in view of US Publication No. 2003/0080986 (Baird). Claims 5-6 were rejected under 35 U.S.C § 103(a) as allegedly obvious over Goodisman in view of Subramanian and further in view of US Patent No. 6,222,537 (Smith). Claims 8-9 were rejected under 35 U.S.C § 103(a) as allegedly obvious over Goodisman in view of Subramanian and further in view of US Patent No. 6,122,647 (Horowitz). Claim 13 was rejected under 35 U.S.C § 103(a) as allegedly obvious over Goodisman in view of Subramanian and further in view of US Publication No. 2002/0010769 A1 (Kippenhan). Claim 14 was rejected under 35 U.S.C § 103(a) as allegedly obvious over Goodisman in view of Subramanian, in view of Kippenhan and further in view of Smith.

Rejections under 35 U.S.C. § 103

The outstanding rejections to the claims are respectfully traversed. On August 17, 2005, Applicants submitted the Declarations of inventor Jerald L. Hittle, and test lead manager for the Smart Links project Richard Gerschwiler, showing that the subject matter of

the present application was invented prior to the effective date of Subramanian and Goodisman, as defined in that Section.

In consideration of the Declarations, the present Official Action seems to imply that the Declarations previously submitted by Applicants do not set forth FACTS or DATA the application is relying on to show completion of the invention prior to the applicable date.

Applicants respectfully disagree.

In this regard, the Official Action states that “a declaration submitted by the inventor to the effect that his or her invention was conceived or reduced to practice prior to the reference data, without a statement of facts demonstrating the correctness of this conclusion, is insufficient to satisfy” the statutory requirements. However, Applicants have not submitted such a bald-faced declaration.

To the contrary, per paragraphs 6 and 7 of the Hittle Declaration, Mr. Hittle attests to (1) the fact that Richard Gerschwiler was supervisor for testing and implementation of the subject matter of the present application, (2) the fact that the “Smart Links” project included the innovation represented by the present application and (3) the fact that Mr. Gerschwiler, as test and implementation lead, is a further evidentiary source of facts and data concerning conception and reduction to practice of the invention.

Then, per paragraphs 2 to 11 of the Gerschwiler application, a detailed roadmap of facts and evidence are provided including actual emails and powerpoint presentations that support a conclusion of earlier conception and reduction to practice (to constructive reduction to practice by filing of the present application). Applicants know of no better FACTS or DATA than the facts set forth in the Gerschwiler Declaration that the Smart Links architecture, as represented by the present application, was conceived at least as early as

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August 7, 2000 (PowerPoint) and August 8, 2000 (email), and reduced to practice under the supervision of Mr. Gerschwiler as test and implementation manager. Moreover, the present application was filed on November 26, 2001, representing a conclusive constructive reduction to practice.

Accordingly, without conceding the propriety of the substance of the outstanding rejections under § 103, Applicants respectfully request reconsideration of the Office's position concerning removal of the Subramanian and Goodman as references applicable to the outstanding claims.

Reconsideration and withdrawal of the rejections to claims 1-23 under 35 U.S.C. § 103(a) is thus earnestly requested.

CONCLUSION

Applicants believe that the present Amendment is responsive to each of the points raised by the Examiner in the Office Action, and submit that Claims 1-23 of the application are in condition for allowance. Favorable consideration and passage to issue of the application at the Examiner's earliest convenience is earnestly solicited.

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